



# CITY COUNCIL

## AGENDA REQUEST

**AGENDA OF:** 09/04/07

**AGENDA  
REQUEST NO:** VI C

**INITIATED BY:** MIKE GOODRUM, COMMUNITY &  
ENVIRONMENTAL SERVICES  
DIRECTOR *AWG*

**RESPONSIBLE  
DEPARTMENT:** COMMUNITY &  
ENVIRONMENTAL SERVICES

**PRESENTED BY:** MIKE GOODRUM, COMMUNITY &  
ENVIRONMENTAL SERVICES  
DIRECTOR *AWG*

**DEPARTMENT  
HEAD:** MIKE GOODRUM, COMMUNITY  
& ENVIRONMENTAL SERVICES  
DIRECTOR *AWG*

**ADDITIONAL  
DEPARTMENT.  
HEAD (S):** N/A

**SUBJECT /  
PROCEEDING:** CONSIDERATION AND ACTION ON AN ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF  
ORDINANCES REGARDING THE REGULATION OF SMOKING IN PUBLIC PLACES.

**EXHIBITS:** ORDINANCE NO. 1639

### CLEARANCES

### APPROVAL

**LEGAL:** MEREDITH WILGANOWSKI, *MW*  
ASSISTANT CITY ATTORNEY

**EXECUTIVE  
DIRECTOR:** JIM CALLAWAY *Jim Callaway*  
COMMUNITY DEVELOPMENT

**PURCHASING:** N/A

**ASST. CITY  
MANAGER:** N/A

**BUDGET:** N/A

**CITY MANAGER:** ALLEN BOGARD *kg* FOR AB

### BUDGET

**EXPENDITURE REQUIRED: \$** N/A

**AMOUNT BUDGETED/REALLOCATION: \$** N/A

**ADDITIONAL APPROPRIATION: \$** N/A

### RECOMMENDED ACTION

Adopt Ordinance No. 1639, which further regulates smoking in public places.

## EXECUTIVE SUMMARY

Ordinance #1639 was unanimously approved at first reading contingent upon adding Town Square Plaza and Public Parks to the prohibited smoking areas. Additionally Council requested that the outdoor arena definition be clarified and better defined. All changes have been made and are highlighted in the attached ordinance.

We are requesting City Council to adopt Ordinance No. 1639. If adopted, the ordinance would go into effect December 31, 2007.

## EXHIBITS

### ORDINANCE NO. 1639

AN ORDINANCE OF THE CITY OF SUGAR LAND, TEXAS, AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES REGARDING THE REGULATION OF SMOKING IN PUBLIC PLACES.

**WHEREAS, secondhand smoke is a known cause of lung cancer, heart disease, low birth weight, chronic lung ailments and other health problems; and**

WHEREAS, secondhand smoke kills over 50,000 non-smoking Americans yearly; and

**WHEREAS, studies undertaken across the country demonstrate that there is no significant adverse economic impact as a result of indoor smoking bans; and**

WHEREAS, given these considerations, the City Council finds that increasing the number of smoke-free indoor areas is necessary to protect the public health and welfare; NOW, THEREFORE;

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS:**

**Section 1.** That Chapter 3, Article VIII of the Code of Ordinances is amended to read as follows:

### **ARTICLE VIII. SMOKING IN PUBLIC PLACES**

**Sec. 3-139. Definitions.** In this Article:

*Bar* means an establishment that derives at least 60% of its gross revenues from the sale of alcoholic beverages to customers for on premises consumption.

*Enclosed area* means a building or portion thereof closed in on all sides from floor to ceiling by solid walls, other than windows and doors.

*Place of employment* means an enclosed area under the control of a public or private employer where employees work or to which employees have access during the course of employment.

*Public place* means an enclosed area to which the public is invited or permitted, with or without being a member or the payment of a membership or admittance fee.

*Restaurant* means an establishment that prepares food for or provides food to the public, guests, students, or employees, and includes a bar area within the restaurant.

*Retail tobacco store* means any one establishment in which at least 60% of its gross revenues are derived from the sale of tobacco products and smoking accessories to the public.

*Smoking* means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

*Outdoor arena* means the seating areas, aisles, customer service areas, and related improved areas of any portion of any stadium, theater, arena, or similar facility that is outside an enclosed area where members of the general public assemble to engage in or witness events.

*Tobacco bar* means a bar in which the on site sales or rental of tobacco products and smoking accessories for consumption or use on the premises exceeds 20% of gross revenues and into which entry is restricted to individuals 18 years of age and above.

*Town Square Plaza* means 1.0897 acres of land and described as Reserve C2 in the Sugar Land Town Square Second Amended Plat recorded in the Real Property Records of Fort Bend County, including the northernmost portion of Reserve C1 adjacent to Reserve C2 up to the foundation of the City Hall building located on Reserve C1, but excluding the seating area of any bar or restaurant.

**Sec. 3-140. Prohibition of smoking.** Except as specifically exempted under this Article, it is unlawful for any person within the City to engage in smoking in:

- (a) The enclosed area of a public place;
- (b) The enclosed area of a place of employment;
- (c) An outdoor arena;
- (d) A public park; and
- (e) Town Square Plaza.

**Sec. 3-141. Reasonable distance.** Smoking is prohibited within 25 feet of outside entrances, exits, or wheelchair ramps serving any entrance or exit, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, with the exception of restaurant and bar outdoor seating areas. Smoking is prohibited within five feet of the outside entrances of restaurants and bars that lead directly to their outdoor seating areas.

**Sec. 3-142. Areas exempt from regulation.** Smoking is allowed in the following establishments if the smoke from the establishment does not permeate into areas where smoking is prohibited under this Article:

- (a) Bars in operation on or before December 31, 2007,
- (b) Tobacco bars,

(c) Retail tobacco stores,

(d) Country Clubs, and

(e) Stage areas of enclosed theaters, if smoking is an integral part of a theatrical performance.

**Sec. 3-143. Posting of signs.** The owner of any premises in which smoking is prohibited under this Article, must:

(a) Clearly and conspicuously post and maintain "No Smoking" signs or the international "No Smoking" symbol (a picture of a burning cigarette inside a red circle with a red bar across it) in every place where smoking is prohibited by this Article. The color of the signs, when not of the international type, must have lettering that is distinct, contrasting to the background and easily read. Letters must have a minimum height of one inch. These signs must be posted in English.

(b) Not permit the use of ashtrays and other extinguishing devices in any area where smoking is prohibited by this Article.

**Sec. 3-144. Violations and penalties.**

(a) A person commits an offense if he is smoking in an area where smoking is prohibited by this Article.

(b) The owner of any premises where smoking is prohibited is required to request that a violator located on the owner's premises immediately extinguish any burning tobacco product. Any knowing or intentional failure to maintain compliance with this Article constitutes an offense.

**Section 3.** That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

**Section 4. That any person found guilty of violating this ordinance shall be fined not more than \$500.00 for each offense. Notice of the enactment of this ordinance shall be given by publishing the ordinance or its descriptive caption and penalty in the city's official newspaper one time within thirty days of passage.**

**Section 5.** That this ordinance is effective on December 31, 2007.

APPROVED on first consideration on \_\_\_\_\_, 2007.

ADOPTED upon second consideration on \_\_\_\_\_, 2007.

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David G. Wallace, Mayor

ATTEST:

Glenda Gundermann, City Secretary

Reviewed for Legal Compliance:

*Meredith Wilganski*